UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,840	10/23/2001	Xiaobo Fan	P14992US1	9171

			EXAMINER
27902	7590	08/11/2004	GREENE, DANIEL L

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ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _23 October 2001_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-19_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-19_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _23 October 2001_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _12/2001_.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter, which the applicant regards as his invention.

2.   Claims 1, 8, and 15 are rejected under 35 U.S.C. 112, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention.

3.   The term "if" in claims 1, 8, and 15 is a relative term, which renders the

claim indefinite. The term "if" is not defined by the claim, the specification does

not provide a standard for ascertaining the requisite degree, and one of ordinary

skill in the art would not be reasonably appraised of the scope of the invention.

The Applicant's use of the term "if" creates the question, "What "if the call server

comprises accounting data ..." does not exist, what action is required. " The

limitation should be rewritten to place the limitation in an active mode such as,

replacing "if" and "determining if" with "when ".

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

5.   **Claims 1-19 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Jansen et al. U.S. Patent 6,243,450 [Jensen], and further

in view of Rainis et al. U.S. Patent 6,310,873 [Rainis].

6.

As per claims 1, 8, and 15:

The recitation that, " A method for sending accounting data, A

telecommunication system comprising, and A call server, comprising, has not

been given patentable weight because it has been held that a preamble is denied

the effect of a limitation where the claim is drawn to a method, a system, an

apparatus, etc. and the portion of the claim following the preamble is a self-

contained description of the method or the system, etc., not depending for

completeness upon the introductory clause. *Kropa v. Robie, 88 USPQ 478*

(CCPA 1951)

Jensen and Rainis discloses the claimed invention, except for the step of

sending from the call server to the AAA server an Accounting Stop message

comprising the accounting data and sending from the call server to the AAA

server an Accounting Start message indicative of a start of a second portion of

the IP session that is to be charged according to a second billing rate. Since the

applicant has not disclosed that sending from the call server to the AAA server

an Accounting Stop message comprising the accounting data and sending from

the call server to the AAA server an Accounting Start message indicative of a

start of a second portion of the IP session that is to be charged according to a

second billing rate solves any stated problem in a new or unexpected way or is

for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the teachings of Jensen and Rainis will perform the invention as claimed by the applicant with any means, method, or product to provide the an accounting record of the call incorporating different rates for different times during the length of the call. The Applicant in their Specification effectively states that the purpose of their invention is to provide a more uniform and controlled manner in presenting billing data to the AAA server. Both Jensen and Rainis utilize a Payment Manager providing for the uniform and controlled manner in presenting billing data.

Jensen discloses the claimed invention except for the tracking and incrementing the time slices of the conversation. Jensen does disclose the use of timers and applying rate information. Rainis teaches that it is known in the art to provide "heartbeat packets" that provide the running cost of the call. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the bill generation of Jensen with the "heartbeat packets" of Rainis, to provide a means for incrementing cost of a call.

As per the aforementioned modifiers, Jensen discloses:

during an IP session, following an occurrence of an accounting event in the call server, determining if the call server comprises accounting data pending transmission to the AAA server, the accounting data comprising at least an activity parameter indicative of an activity during a past first portion of the IP session that is to be charged according to a first billing rate; Col. 12, lines 34-67.

If the call server comprises accounting data pending transmission to the AAA server, sending from the call server to the AAA server an Accounting Stop message comprising the accounting data; Col. 11, lines 1-67.

sending from the call server to the AAA server an Accounting Start message indicative of a start of a second portion of the IP session that is to be charged according to a second billing rate. Col. 11, lines 1-67.

As per claims 2 and 9:

Jensen further discloses:

following a change of a billing rate applicable to the IP session, from the first billing rate to the second billing rate, collecting the accounting data from the call Server. Col. 11, lines 1-67.

As per claims 3 and 10:

Jensen further discloses:

storing the accounting data in a memory of the call server. Col. 9, lines 20-35.

As per claims 4 and 11:

Jensen further discloses:

wherein the change of the billing rate is triggered by an expiration of a Time of Day Timer of the call server. Col. 12, lines 1-67.

As per claims 5, 12, and 17:

Jensen further discloses:

wherein the accounting event is an accounting stop event indicative of a termination of the IP session, Col. 10, lines 40-60.

Jensen and Rainis discloses the claimed invention, except for the step of sending from the call server to the AAA server an Accounting Stop message comprising the accounting data and sending from the call server to the AAA server an Accounting Start message indicative of a start of a second portion of the IP session that is to be charged according to a second billing rate. Since the applicant has not disclosed that sending from the call server to the AAA server an Accounting Stop message comprising the accounting data and sending from the call server to the AAA server an Accounting Start message indicative of a start of a second portion of the IP session that is to be charged according to a second billing rate solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the teachings of Jensen and Rainis will perform the invention as claimed by the applicant with any means, method, or product to provide the an accounting record of the call incorporating different rates for different times during the length of the call. The Applicant in their Specification effectively states that the purpose of their invention is to provide a more uniform and controlled manner in presenting billing data to the AAA server. Both Jensen

and Rainis utilize a Payment Manager providing for the uniform and controlled

manner in presenting billing data.

As per claims 6, 13, and 18:

Jensen does not expressly show wherein the accounting event is a first

accounting interim event. However this difference is only found in the

nonfunctional descriptive material and is not functionally involved in the steps

recited. The accounting event is a first accounting interim event step would be

performed the same regardless of the accounting interim. Thus, this descriptive

material will not distinguish the claimed invention from the prior art in terms of

patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed.

Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the

art at the time the invention was made to perform the accounting event is a first

accounting interim event because such data does not functionally relate to the

steps in the method claimed and because the subjective interpretation of the data

does not patentably distinguish the claimed invention. The accounting event will

occur regardless if it was a first, second, etc. interim event.

As per claims 7, 14, and 19:

Jensen does not expressly show wherein following an occurrence of a

next account interim event in the call server during the IP session, sending from

the call server to the AAA server a second Account Interim message comprising

at least an activity parameter indicative of an activity during the second portion of the IP session that is to be charged according to the second billing rate.

However this difference is only found in the nonfunctional descriptive material and is not functionally involved in the steps recited. The accounting event following an occurrence of a next account interim event in the call server during the IP session, sending from the call server to the AAA server a second Account Interim message comprising at least an activity parameter indicative of an activity during the second portion of the IP session that is to be charged according to the second billing rate step would be performed the same regardless of the accounting interim. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to perform following an occurrence of a next account interim event in the call server during the IP session, sending from the call server to the AAA server a second Account Interim message comprising at least an activity parameter indicative of an activity during the second portion of the IP session that is to be charged according to the second billing rate because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. The accounting event will occur regardless if it was a first, second, etc. interim event.

As per claim 16:

Jensen further discloses:

wherein before determining if any accounting data is pending transmission to the AAA server, the call server stores the accounting data in the memory following a change of a billing rate applicable to the IP session, from the first billing rate to the second billing rate. Col. 9-10, lines 1-67.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703-306-5539. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 703-305-9768.
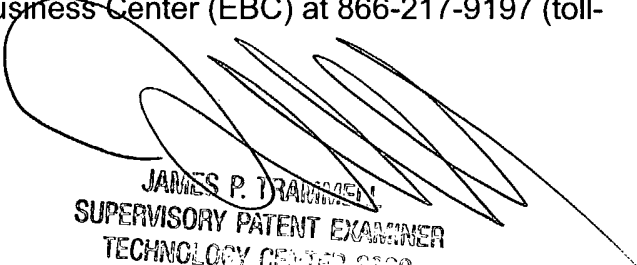
The fax phone number for the organization where this application or proceeding

is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

for published applications may be obtained from either Private PAIR or Public

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direct.uspto.gov. Should you have questions on access to the Private PAIR

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free).

8/4/04

DLG

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